



**SHREWSBURY CONSERVATION COMMISSION  
SHREWSBURY, MASSACHUSETTS**

**MINUTES**

**Regular Meeting: Tuesday, January 21, 2003 - 7:00 P.M.**

**Location: Selectmen's Meeting Room - Municipal Office Building**

**Present:** John J. Ostrosky, Chairman  
Robert P. Jacques, Vice-Chairman  
Dorbert A. Thomas, Clerk  
Patricia M. Banks  
Kenneth F. Polito

**Also Present:** Brad Stone, Agent

**Absent:** John D. Perreault, Town Engineer

Mr. Ostrosky opened the meeting at 7:00 P.M.

- 1. Signed bills.**
- 2. Review and approve minutes for meetings.**

The Commission approved the Minutes of December 17, 2002, as submitted.

- 3. Meetings and Hearings – 7:05 P.M.**

**285-1191 Continued - Public Hearing regarding the Notice of Intent filed by the Commonwealth of Massachusetts Department of Environmental Management for repairs to stabilize the flood control dike and create adequate turning area for maintenance vehicles on property at 0 Hill Street.**

David Cameron, from Tighe and Bond, representing the D.E.M., attended the hearing, and said he was asking for a continuation and to give the Commission an update on the project status. He said he had a discussion with Mr. Stone last week about this project. He said he was brought in at the last moment and has noticed that there are some serious deficiencies with the Notice of Intent.

Mr. Cameron said it is his understanding that the Commission has a basic understanding of the project, which is basically just repair of an existing flood control structure. He said he went out to the site on Monday, January 20, 2003.

Mr. Cameron said, as he understands it, Mr. Stone's primary concerns were 1) there was no wildlife habitat evaluation conducted – he said that was one of the things he did when he was out there on Monday, the 20<sup>th</sup>; and 2) the other issue was according to summary of impacts that were put together for this, there looks like there will be kind of a balance of 100 sq. ft. of BVW that was going to be filled as a result of this.

Mr. Cameron said he revisited the delineation. He said he thinks he would like to make a request to the Commission – he is asking for a continuation, as he didn't have time to put anything together. He said he would like to submit a new existing conditions plan that clearly shows what the real resource boundaries are out there. He said the dike is not a bordering vegetated wetland. He said the embankment on the existing road, Fox Hill, is not a bordering vegetated wetland, it's a banking, which drops down about six feet.

Mr. Cameron said he would like to submit two plans, instead of just the one, with new details. In terms, of the wildlife habitat evaluation, there are number of things that the regulations call for. He said they are proposing to fix this dike, so that all of the houses don't get flooded. He said they are proposing to replace the stream in an area, so there is going to be a one to one replacement for the linear footage of bank, but one side is going to be lined with rip-rap now.

Mr. Cameron said the existing bank on the western side is eroding, so all that material is ending up downstream in the form of suspended solids during storm events. He said it is not highly vegetated, it doesn't have any undercuttings, it's not providing real significant cover for fish. He said he is taking the position that, he can't make the case that rip-rap is going to be better than what is there now, but he can certainly make the case that it's not going to be any worse. He said placing rip-rap there, and it's got spaces for critters to hide under and den under, is certainly no worse than grass that's cut down to this height with eroding banks.

Mr. Cameron said he thinks he can take care of the banks, but the bordering vegetated wetland is the big thing. He said he looked at the summary of impacts that the prior engineer put together, and for BVW they are saying 3,000 sq. ft. of temporary impacts. He said based on his delineation, he is coming up with 12,000 sq. ft. of temporary impact. He said they are saying permanent impacts of BVW of 100 sq. ft., and he came up with permanent impacts of 250 sq. ft.

Mr. Cameron said the problematic thing here, in terms of staying away from having to file a 401 water quality certification application is this BVW issue. He said they recognize that the Commission can issue an Order of Conditions for this, regardless of whether or not they are going to propose to replicate 250 sq. ft. of BVW. He said that is okay, but it's not going to get them out of the 401 process. He said, in the design of the project, he's going to satisfy everything so they don't have to get a 401 water quality certificate for the D.E.P. He said he thinks he can do that by very discrete design component put into the new stream channel that is being created, so they can at least make a section of this new stream channel constitute bordering vegetated wetland. He said they don't need to capture another 150 sq. ft. He said this is the solution he has come up with and he wanted to discuss it with the Commission before he went ahead with this design.

Mr. Ostrosky continued the hearing to February 18, 2003.

**285-\*\*\*\* Public Hearing regarding the Notice of Intent filed by Chris Muello for the removal & replacement of trees and associated site work at 46 Walnut Street.**

Robert Murphy – the engineer, and Chris Muello – the homeowner, attended the hearing. Mr. Murphy said he wants to do work within the buffer zone of the BVW. He said this is an area known as Eaton Pond, on Walnut Street.

Mr. Murphy said the applicant wishes to repair an existing driveway in the buffer zone, and to remove some dead and broken trees also within the buffer zone. He said there is not work proposed within the wetland. He said there is actually a town 30-foot wide sewer easement, which separates the Muello property from the wetland.

Mr. Murphy said they are looking to get the Commission's approval to work within the buffer zone area to remove some of the dead and dying trees, and replace them with Evergreens and tall upright arborvitaes along the front portion of the property. He said this is a sewer easement and there are quite a few large trees directly over the sewer pipe, that really shouldn't be there. He said the applicant was in the process of removing some of these trees, when he was notified that he had to go through the public hearing process.

Mr. Murphy said he would like to clean out the dead trees, replace them with more appealing Evergreen trees and put down from the dead trees, mulch to create wood chips, put them down in that area. He said it really is an erosion control and to get rid of all the brush in that area.

Mr. Murphy said that the stream running into Eaton Pond is a perennial stream that is protected by the Rivers Law, and they are proposing to do work within that Riverfront zone, along the front portion of the property. He said the lot was created prior to 1996, so they are proposing to do approximately 5,000 sq. ft. of work, so they fall within the guidelines of the Riverfront Law.

Mr. Murphy, as shown on the plan, there are haybale dikes and erosion-sedimentation controls. He said there isn't a continuous line, because there are several areas where the grade actually goes away from the wetlands. He said there are high spots and they haven't placed haybales along the high spots, because it's really not necessary.

Mr. Murphy said there is a lot of bark mulch in the area of the easement as well, because they had been doing some tree work in the area of the easement as well, because they had been doing some tree work in that area.

Mr. Murphy said the tree cutting took place along the pond area and in the front where it says 30-foot wide sewer easement, on the plan, there are quite a few dead and broken trees in that area and they would like to take out the dead and dying ones and replace them with a tall arborvitaes, which would do well in that soil. He said it would be more appealing than what is there now, the trees there now are overgrown and they are broken by ice and snow.

Mr. Murphy said the driveway is to be repaired and paved. He said one area, about 200 feet in, there is a telephone pole right at the corner. He said there is a sharp turn to go around the pole. He said the intent is to relocate the pole so there isn't that sharp 'S' turn around it. Mr. Muello said the pole has been relocated, but the existing pole is still there and there still are communication wires on the existing pole. Mr. Muello said they moved the pole back, out of the area.

Mr. Jacques said the plan doesn't tell the extent of the activity. He said it's been told in the narration of the project, but it's not on the plan. Mr. Murphy said the note on Eaton Pond – "Area to be regraded, loamed and seeded." He said the intent is not to change the grade on the site, there are a lot of trash and piles of old tires and junk that have accumulated over the years, and the idea is to essentially to go in and clean it all out and plant grass along there. He said the grading, as seen, is to remain as it is. He said the property line follows right along the edge of the pond in that area, so there's no work to be done past the property line.

Mr. Murphy the project is to clean up the area, plant grass, not really change the grade at all, replace some of the dead, dying trees with new trees. Mr. Jacques if they would have any objection to conditions that would restrict this work to handwork. Mr. Muello said he won't be able to remove a stump with his hand; he will need some machine to remove stumps, but not to regrade.

Mr. Jacques asked how many trees they would estimate that they would clear from the property. Mr. Murphy said right now they have taken out, from the buffer zone, seven or eight trees, which were approximately 12 inches in diameter and less. He said the intent is to remove a few more in the first two or three hundred feet off Walnut Street. Mr. Muello said there are at least 10 more dead pine trees and there is some underbrush and broken stuff, and the rotted trees.

Mr. Polito said if they grind the stumps right in place, there probably would be a lot less disturbance of the soil – they wouldn't need to dig big holes to pull the stumps out and then bring in fill to fill the holes in.

Mr. Polito asked where the arborvitaes would be planted and how many they anticipate planting. Mr. Murphy said when you come off of Walnut Street, at the 30 foot wide sewer easement, the property line covers the entire easement in that area, and said the first couple hundred feet is where they would like to have an arborvitae hedge in that area. He said the intent is to stay out of the easement. Mr. Polito said this is a sensitive area and thinks the Commission needs to see more detail in what they plan to do in that area.

Mr. Ostrosky said that even selective cutting is not to occur in that inner Riparian zone. He that is supposedly an 'no-touch' zone. He said he realizes if you go out 100 feet from the perennial stream, you are pretty much off your property. He said the driveway goes through inner riparian, but it is an existing driveway. Mr. Murphy said, essentially, what they are trying to do is to make it more attractive and clean up the dead trees and the junk. Mr. Ostrosky said the whole point of an inner riparian zone is it is supposed to be a no disturb zone and that it's supposed to be as natural as possible, it's not supposed to maintained as a yard.

Mr. Ostrosky said the Commission needs to work within the constraints of the law of the riparian zone, and right now all the Commission sees is notes with arrows, and no hard details of any landscaping plan. He said by law, it says you don't do anything, but the Commission wants to tie the work down to something more concrete. Mr. Murphy said he can create a larger scale detail of this inner riparian zone, showing with more specifics the areas to be cleaned and the tree work to be done.

Mr. Ostrosky said with the type of tree to be used, because what they are trying to do is replicate nature as much as possible too. He said there is value in some old trees and you obviously don't want to make it a safety hazard, but that is what the inner riparian zone is set up to be – it's set up to be a protective area, and there is value in older trees. He said the Commission does not want to right an Order that clear-cut the area.

Mr. Murphy asked the Commission for a continuance, so that they can come back to the next hearing with a detailed landscaping plan showing the trees to be removed/cut in the area, and where the new trees will be placed, and some specifics on the particular species of plants to be used.

Mr. Jacques said he thinks that is a good idea, as the Commission should get some idea what the plans are. He said the other thing he'd like is if they could mark the trees they want removed, the Commission could do a site visit to see where the work will be done. Mr. Murphy said he will walk the site with Mr. Muello and they will mark the trees.

Mr. Stone asked if the property line was easier to see now, as when he was out there, it was tough to judge in the field exactly where it was – are there any more stakes out there. Mr. Muello said it is staked out, but there is snow on the ground. Mr. Murphy said there are orange pipes on all the corners. Mr. Stone said the concern he had was that it looked like there are a couple of "jogs" as they get closer towards the house, just before the existing garage, and it looks like there is as much as 30 feet between the pond and the property line. He said he just wants to make sure that the Commission takes a close look at that to see what was already removed in terms of brush and trees. He said that area is land that the Town owns and they are going to want to pay close attention to see if there is any vegetation restoration needed.

Mr. Stone said the other thing to be considered when thinking about plantings, is putting some of the plantings along the property line, so anyone from the public that wants to use public land, can have an idea of where the line might be if there's not enough markers already. Mr. Murphy said they use arborvitaes as a line along the property line as well. He said it's nowhere near the pipe so that would be pleasing as well.

Mr. Ostrosky continued the hearing to February 18, 2003, at 7:00 P.M.

**RDA            Public Meeting regarding the Request for Determination of Applicability  
                     filed by Stephen & Kathryn Todd for the construction of a deck at 36  
                     Thomas Farm Circle**

Steven Todd attended the hearing. Mr. Todd said the plan he has was actually drawn up a little less than three years ago. He said it is a 12 x 16 screen room with a deck to the left of it. He said he appeared before the Commission in the Spring of 2000, and had that constructed.

Mr. Todd said recently he decided he would like to also put in a 28 x 14 deck, which is to the right of the screen room, in between the screen room and the garage.

Mr. Todd said he asked Mr. Stone if this same plan would be sufficient, and he said he would accept it. He said what he is submitting is a Request for Determination of Applicability. He said the plan would basically be for this 28 x 14 deck to be constructed with a erosion barrier placed around before the construction, and all of the dirt, from digging the sona tubes, will be taken off the site. He noted that the deck is not extending any further than the screen room that they already added.

Mr. Ostrosky closed the hearing. The Commission voted a negative determination.

**RDA          Public Meeting regarding the Request for Determination of Applicability  
filed by Philip Heywood to determine if there are areas subject to the  
Wetlands Protection Act at 295 Boylston Street**

Phil Heywood, 31 Wachusett Avenue, attended the hearing. Mr. Heywood explained that about a month ago, a realtor came to his house and asked him (as well as some other neighbors) were willing to sell part of their land so that, what is now a landlocked piece of property, could be built on. He said the reason they needed the additional land was that in order for it to be feasible for the builder to build houses, he needed additional footage.

Mr. Heywood said the concern he had was, as an abutter, that in the Springtime and sometimes other parts of the year, there is standing water. He said this particular lot is lower than the lots on Wachusett Street and is hemmed by a lot of ledge on Route 140.

Mr. Ostrosky said if there is a positive determination, it's just going to mean the land does have wetlands on it, but asked if Mr. Heywood was looking to fight the installation of one home on the property or two homes? Mr. Heywood said he didn't think they knew the answer to that question. He said they are taking it one step at a time. He said if none of the abutters is willing to give the additional footage, then the two-house option appears to be dead. He said the only concerns he had, even if doing one house, was it's quite a ways in from the street, so if he was going to bring the sewer line, that would be expensive, if he's going to use a leach field, that's another reason why he really needs to know, and Mr. Heywood would like to know what the wetland situation is.

Mr. Heywood said the second concern is, based on the ownership of this particular piece, there are three pieces, the third piece actually does come out on Boylston Street, and that would have to be cut through from Route 140, and that is directly on the middle of the curb, as the curb comes around prior to reaching Wachusett Avenue. He said they felt this could be a real traffic problem. Mr. Heywood and some of the abutters, who actually live on Boylston Street (who were in attendance), is what is the appropriateness of building this particular land.

Mr. Ostrosky explained that this is a little unusual in that Mr. Heywood is not the owner of the property. He said the way it typically works is that when a person is proposing a project and there is some question as to whether the wetland protection act applies, they sometimes will ask for this Determination of Applicability.

He said one of the things they usually do in that process, is they present the Commission with a report from a botanist that they've walked the site and the evaluation of the situation and it allows the Commission access to that property. He said in this case, the owner is out of state, so there is no right of access to enter that property. He said he knows Mr. Stone has been out there to walk Mr. Heywood's property line and there is a lot of snow right now, so it's a little difficult right now.

Mr. Heywood said what they are looking for right now, to find out if there is a wetland there. Mr. Jacques said, even though this may not a perfectly appropriate process for what Mr. Heywood is seeking to achieve, because they can't determine this, and that he probably has accomplished raising the Commission's attention to this issue. He explained that this is not something that they can achieve at this time, because Mr. Heywood does not have control of this property.

Mr. Ostrosky closed the discussion on the Determination after explaining that the Commission cannot make such determination, and that the property owner, when filing to do work, would have a botanist out there making a wetland determination, and would then come before the Commission.

**285-\*\*\*\* Public Hearing regarding the Notice of Intent filed by Mark & Pam Fisher for the construction of a swimming pool at 12 Kemble Drive**

John Grenier – the engineer from J.M. Grenier Associates, and Mark and Pam Fisher, the homeowners, attended the hearing.

Mr. Grenier said the Fishers have an existing backyard, with quite a slope that goes down to a wetlands area that is to the west. He said they have a normal backyard landscaped, and there is a fence that does circle the perimeter of their backyard. He said what they are proposing to do is put a small pool in that is within the 100 foot buffer to this wetland.

Mr. Grenier said he did put down sediment erosion control measures that are to be installed, in place, prior to any construction, any site work, and this erosion control will just basically shadow right along the interior of the existing fence line. He said any work is going to be within their existing backyard that is already manicured, already landscaped, and there is already a deck out in that area. He said there are no new areas to be graded.

Mr. Grenier said the pool is more of an ornamental pool, it has some shape to it. He said they've already approached the pool company, and they have plans. He said that is where he got the location and the shape of the pool, so the Commission will know exactly where the pool is going to be, how it's going to be constructed, how it's going to be installed.

Mr. Grenier said they will use a backhoe, and another machine, and then bring material out and truck it off site. He said the depth of the pool is five to six feet at its greatest, so it's not a large undertaking.

Mr. Jacques asked if that was all fill land or original grade. Mr. Grenier said that was all fill land. He said it should be clean fill that they used during construction of the original subdivision. Mr. Grenier said any materials that they did find; they'd have to take them right off site.

Mr. Ostrosky asked, regarding the filtration system, and there is a pump off the back of the house, and is that where they are going to have the filters and backwash? And he asked what the plans are for the backwash and said there is a steep slope and he said he hates to see it directed right out into the wetlands at the toe of the slope, and if it's chlorinated... Mr. Grenier said that was a good question and he would have to talk to the pool company. He said if they did have to do a pump or backwash, it would have to come out away from the wetland.

Mr. Ostrosky closed the hearing, stating they will get back to Mr. Stone with the information from the pool company about the backwash.

#### **4. New Business**

##### **a. Discussed/Signed Draft Orders of Conditions and Requests for Determination of Applicability**

|                 |   |
|-----------------|---|
| <b>285-1191</b> | <b>0 Hill Street – continued</b>                |
| <b>285-****</b> | <b>46 Walnut Street – continued</b>             |
| <b>285-****</b> | <b>12 Kemble Drive – conditionally approved</b> |
| <b>RDA</b>      | <b>36 Thomas Farm Circle -</b>                  |
| <b>RDA</b>      | <b>295 Boylston Street -</b>                    |

##### **b. Discussed/Signed Enforcement Orders**

###### **• Park Grove Farm Subdivision**

Mr. Stone said the Commission had issued a written warning previously to the Enforcement Order for sediment reaching the pond on Fieldstone Drive. He said they had another occurrence with sediment reaching the pond, and an Enforcement Order was issued. He said they have complied with the Enforcement Order by submitting an updated erosion control plan installing some new devices on site, such as polymers using the flock-locks to try and control the sediment. He said, once the weather permits, they will also be doing a survey of the pond to determine how much, if any, sediment accumulated down at the bottom.

###### **• 274 Holden Street**

Mr. Stone said Worcester Sand and Gravel was excavating and removing soil. He said there is quite a big banking they were cutting into, over 15 feet high, and a lot of soil was exposed. He said the site itself is well outside the buffer zone, but during some heavy rains, there was dirty stormwater that washed down into some catch basins and made its way into an intermittent stream. He said it definitely was severe enough that it warranted an Enforcement Order. He said that the attorney representing Worcester Sand and Gravel told him that they would be getting an engineer to report to us.



**5. Old Business**

**a. Discuss/Sign Certificates of Compliance**

- 4 Woodchuck Hill Road
- Lot #39 Country Way
- Lot #40 Country Way
- 46 West Main Street
- Shrewsbury Woods Subdivision

**6. Correspondence**

The meeting adjourned at 8:30 P.M.

Respectfully Submitted,

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*Annette W. Rebovich*